

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 2252

By: Brumbaugh

6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2011, Section 220, which relates to the Uniform
9 Tax Procedure Code; modifying dollar amount required
10 for approval by district court; providing for
11 voluntary disclosure agreements; providing for waiver
12 of penalty; providing for waiver of designated
13 percentage of interest; exempting waiver from further
14 action by Oklahoma Tax Commission or taxpayer;
15 prescribing limitations on agreements; providing for
16 modified disclosure agreements; limiting certain
17 periods of time; providing for exempt treatment of
18 certain portion of sale proceeds from transactions
19 involving oil or gas units; authorizing election by
20 taxpayer regarding allocation of sales amount;
21 providing for codification; and providing an
22 effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 SECTION 1. AMENDATORY 68 O.S. 2011, Section 220, is
amended to read as follows:

Section 220. A. The interest or penalty or any portion thereof
ordinarily accruing by reason of a taxpayer's failure to file a
report or return or failure to file a report or return in the
correct form as required by any state tax law or by this Code or to
pay a state tax within the statutory period allowed for its payment

1 may be waived or remitted by the Oklahoma Tax Commission or its
2 designee provided the taxpayer's failure to file a report or return
3 or to pay the tax is satisfactorily explained to the Tax Commission
4 or such designee, or provided such failure has resulted from a
5 mistake by the taxpayer of either the law or the facts subjecting
6 him to such tax, or inability to pay such interest or penalty
7 resulting from insolvency.

8 B. The Except as otherwise provided by subsections C and D of
9 this section, the waiver or remission of all or any part of any such
10 interest or penalties in excess of Ten Thousand Dollars (\$10,000.00)
11 Twenty-five Thousand Dollars (\$25,000.00) shall not become effective
12 unless approved by one of the judges of the district court of
13 Oklahoma County after a full hearing thereon.

14 The application for the approval of such waiver or remission
15 shall be filed in the office of the court clerk of the court at
16 least twenty (20) days prior to the entry of the order of the judge
17 finally approving or disapproving the waiver or remission. The
18 order so entered shall be a final order of the district court of the
19 county.

20 C. Taxpayers who (1) are not currently under audit or
21 investigation, (2) who have not collected taxes from others, such as
22 sales and use taxes or payroll taxes and not reported those taxes,
23 and (3) who have not within the preceding three (3) years entered
24 into a voluntary disclosure agreement for the type of tax owed may

1 enter into a voluntary disclosure agreement with the Tax Commission
2 in order to report a state tax liability owed by the taxpayer.
3 Taxpayers who have not collected taxes from others, such as sales
4 and use taxes or payroll taxes and not reported those taxes may
5 enter into a modified voluntary disclosure agreement as is provided
6 in subsection F of this section provided that they meet all the
7 other requirements provided in this subsection. If the Tax
8 Commission agrees with the proposed terms for payment of the
9 principal amount of tax due and owing, the penalty otherwise imposed
10 by law upon the principal amount shall be waived by operation of law
11 and no further action by the Tax Commission or by the taxpayer shall
12 be required for the waiver of such penalty amount and fifty percent
13 (50%) of the otherwise applicable interest amount shall be waived by
14 operation of law and no further action by the Tax Commission or by
15 the taxpayer shall be required for the waiver of such interest
16 amount.

17 D. The Tax Commission shall limit the period for which
18 additional taxes may be assessed (the lookback period) to three (3)
19 taxable years for annually filed taxes, or thirty-six (36) months
20 for taxes that do not have an annual filing frequency.

21 E. Voluntary disclosure agreements may be denied or nullified
22 by the Tax Commission if a taxpayer's failure to report or pay is
23 determined to be the result of a pattern of intentional or gross
24 negligence regarding compliance with the laws.

1 F. Taxpayers who meet all of the qualifications specified in
2 subsection C of this section, except that they have collected taxes
3 from others, such as sales and use taxes or payroll taxes, and not
4 reported those taxes, may enter into a modified voluntary disclosure
5 agreement.

6 G. The provisions of a modified voluntary disclosure agreement
7 shall be the same as a voluntary disclosure agreement as specified
8 in subsection C of this section, except that (1) waiver of interest
9 shall not apply except as may be optionally granted at the
10 discretion of the Tax Commission, and (2) the period for which taxes
11 must be reported and remitted is extended beyond the three-year or
12 thirty-six month period provided in subsection C of this section to
13 include all periods in which tax has been collected but not
14 remitted.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1360.1 of Title 68, unless there
17 is created a duplication in numbering, reads as follows:

18 To the extent authorized by this section, there shall be exempt
19 from the tax imposed pursuant to Section 1354 of Title 68 of the
20 Oklahoma Statutes sales of tangible personal property, oil and gas
21 production equipment, including but not limited to the surface
22 equipment and personal property located in the well bore which is
23 not a fixture and retains its characteristics as personal property
24 separate and apart from real property, if such property is sold as

1 part of an oil or gas unit which includes leases of developed oil
2 and gas producing properties which contain both mineral interests
3 and tangible personal property and intangible personal property
4 composed of an interest in minerals pursuant to an oil and gas
5 lease. At the election of the taxpayer, the exemption authorized by
6 this paragraph shall extend to either ninety percent (90%) of the
7 total purchase price for the sale proceeds of an oil or gas unit
8 interest or the taxpayer may submit information establishing the
9 fair market value of the tangible personal property sold in a unit
10 purchase transaction and the sales tax shall only be imposed upon
11 the proceeds from the sale equal to such fair market value
12 determination.

13 SECTION 3. This act shall become effective November 1, 2017.

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